

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Evelyn L. Clark
1858 Colton Way
Lancaster, South Carolina 29720.

File Number 2002-113793.

**Default Order Revoking
Resident Insurance Agent's License**

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (Supp. 2000), by the State of South Carolina Department of Insurance upon Evelyn L. Clark, by both certified mail, return receipt requested, and by regular mail on September 27, 2002.

That letter informed Evelyn Clark of her right to request a public hearing upon the allegations of impropriety contained within the letter against her. The letter further warned that her failure to make a timely, written request would result in my summary revocation of his license to do business as a resident insurance agent within the State of South Carolina. Despite that warning, Ms. Clark has failed to respond to the Department's letter. She also has failed to provide the Department with a current address in violation of S.C. Code Ann. § 38-43-107 (1989), and the United States Postal Service returned as undeliverable the letters sent by the Department. On November 6, 2002, therefore, counsel for the Department filed an Affidavit of Default, and submitted the entire matter directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a resident insurance agent within the State of South Carolina for Monumental Life Insurance Co., Evelyn L. Clark failed to turn-over or satisfactorily account for \$1,044.12 in insurance premiums collected from citizens of this State.

Section 38-43-130 of the South Carolina Code provides the Director or his designee "may revoke or suspend an agent's license after ten day's notice...when it appears that an agent...has violated this title or any regulation promulgated by the department, or has willfully deceived or dealt unjustly with the citizens of this State." This Code Section goes on in Subsection (3) to describe "deceived or dealt unjustly with the citizens of this state" specifically to include, "failing to transmit promptly or pay all or a portion of the amount of an insurance premium when the agent...has received payment from a customer or insured."

In accordance with my findings of fact, and considering Evelyn L. Clark's failure to avail herself of her opportunity to be heard, I now conclude, as a matter of law, that Ms. Evelyn Clark violated S.C. Code Ann. § 38-43-130(3) (Supp. 2000) and that her resident insurance agent's license should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's, *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2000). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110(3) (Supp. 2000).

It is, therefore, ordered that the license of Evelyn L. Clark to do business as a resident insurance agent within the State of South Carolina be, and is hereby, revoked, and that no license issued through the State of South Carolina Department of Insurance is to be issued to her.

It is further ordered that a copy of this order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Evelyn Clark is currently licensed, through the State of South Carolina Department of Insurance, as a resident insurance agent within the State of South Carolina.

This order becomes effective as of the date of my signature below.

A handwritten signature in black ink, appearing to read "E. N. Csiszar", written in a cursive style.

Ernst N. Csiszar
Director

06 November 2002 at
Columbia, South Carolina

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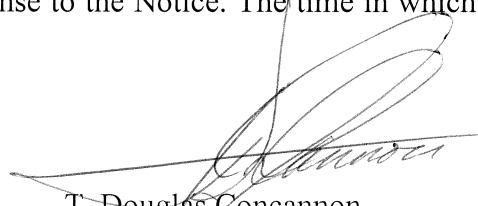
SCDOI File Number 2002-113793.

Affidavit of Default

Personally appeared before me T. Douglas Concannon, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was an attorney representing the State of South Carolina Department of Insurance in this administrative action. He further stated the following:

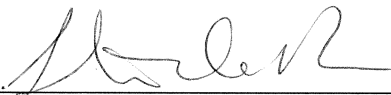
The Department served notice on Evelyn L. Clark at the address detailed above by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department would request the Director of Insurance to summarily revoke her license to act as a resident insurance agent within the State of South Carolina in thirty days. The Department served the Notice, pursuant to S.C. Code Ann. § 38-3-170 (2002), by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." That Notice further informed Ms. Clark of her opportunity, within thirty days, to request in writing a public hearing.

The United States Postal Service effected service of the Notice by certified mail, return receipt requested, and by regular mail, on or about September 27, 2002. Ms. Clark has made no request for a public hearing or any other response to the Notice. The time in which to do so has expired. She is now in default.



T. Douglas Concannon
Associate General Counsel

Sworn to and subscribed before me
this 6th day of November, 2002.



Steven R. DuBois
Notary Public for the State of South Carolina
My Commission Expires May 10, 2009

South Carolina Department of Insurance
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